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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,505	11/15/2001	Michael R. Flannery	P1768US00	3251
24333	7590	10/19/2004	EXAMINER	
GATEWAY, INC. ATTN: SCOTT CHARLES RICHARDSON 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			GAUTHIER, GERALD	
			ART UNIT	PAPER NUMBER
			2645	
DATE MAILED: 10/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/001,505	FLANNERY, MICHAEL R.
	Examiner Gerald Gauthier	Art Unit 2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date 2. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-30** are rejected under 35 U.S.C. 102(e) as being anticipated by Holt (US 2003/0044654).

Regarding **claim 1**, Holt discloses a cellular telephone (¶ 0001) comprising:  
a first transceiver for establishing cellular telephone calls (¶ 0020) [The wireless device includes a first communication mechanism 202 to establish a first a telephone call];  
a second transceiver for establishing a local voice channel (¶ 0020) [The wireless device includes a second communication mechanism 204 to establish a first a telephone call]; and  
a mixer for combining voice corresponding to the cellular telephone call with voice on the local voice channel to create a multiparty conference call (¶ 0020) [The

wireless device includes a conference call mechanism 206 extends external telephone calls established via the first communication mechanism 202 to conference calls with the device 104 via the second communication mechanism 204].

Regarding **claim 2**, Holt discloses an input device for selecting transceivers and identifying parties (¶ 0014).

Regarding **claim 3**, Holt discloses the second transceiver implements a wireless communication protocol to establish a local voice channel (¶ 0020).

Regarding **claim 4**, Holt discloses the communication protocol is selected from the group consisting of RF, IR and microwave based communication protocols (¶ 0013).

Regarding **claim 5**, Holt discloses a microphone and a speaker coupled to the mixer (¶ 0020).

Regarding **claim 6**, Holt discloses the second transceiver automatically identifies other compatible transceivers within range for potential voice channel establishment (¶ 0020).

Regarding **claim 7**, Holt discloses a menu driven interface for controlling establishment of voice channels (¶ 0022).

Regarding **claim 8**, Holt discloses the second transceiver receives requests from other devices to establish a voice channel (¶ 0022).

Regarding **claim 9**, Holt discloses the voice channel is established with device having a compatible transceiver, wherein the device is selected from the group consisting of cellular telephones, two way radios, personal digital assistants, internet appliances and computer systems (¶ 0020).

Regarding **claim 10**, Holt discloses the mixer comprises executing software (¶ 0020).

Regarding **claims 11 and 18**, Holt discloses all the limitations of **claim 11** as stated in **claim 1** above and furthermore discloses identifying a third party device within a desired local area (¶ 0017) [The device 102 first performs a discovery process to become aware of the other wireless devices 104 in the local area network];

Regarding **claims 12 and 19**, Holt discloses establishing further voice channels with further parties, and mixing voice from the multiple voice channels (¶ 0017).

Regarding **claims 13 and 20**, Holt discloses the third party device is invited to establish a voice channel prior to its establishment (¶ 0017).

Regarding **claims 14 and 21**, Holt discloses the voice channel is established after acceptance by the third party device (¶ 0020).

Regarding **claims 15 and 22**, Holt discloses the cellular phone is invited to establish the voice channel with the third party device (¶ 0017).

Regarding **claims 16 and 23**, Holt discloses detecting third party devices within range of the second transceiver (¶ 0017).

Regarding **claims 17 and 24**, Holt discloses a user of the cellular telephone is provided an interface facilitating selection of the third party device for which to establish a voice channel (¶ 0020).

Regarding **claim 25**, Holt discloses all the limitations of **claim 25** as stated in **claim 1** rejection and furthermore discloses a housing (102 on FIG.2).

Regarding **claim 26**, Holt discloses the means for communicating with a first device via a cellular communications network comprising a cellular telephone transceiver circuit structure (¶ 0013).

Regarding **claim 27**, Holt discloses the means for communicating with a second device via a local communications link comprising a radio-frequency transceiver circuit structure (¶ 0013).

Regarding **claim 28**, Holt discloses the means for combining communications with the first and second devices comprising a mixer circuit structure (¶ 0020).

Regarding **claim 29**, Holt discloses the means for communicating with a second device via a local communications link implementing a form of communications selected from the group consisting of Bluetooth, RF analog, RF digital, IR, spread-spectrum, frequency-hopping, network, wireless, and wired (¶ 0013).

Regarding **claim 30**, Holt discloses the housing having a size and shape conducive to hand-held operation and for operation from a battery stored within a boundary defined by the housing (102 on FIG. 2).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thomas is cited for a conference call method and apparatus thereof (FIG. 1).

Robertson et al. is cited for an user interface-technique for managing an active call (FIG. 1).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GERALD GAUTHIER**  
**PATENT EXAMINER**

g.g.

October 17, 2004

**FAN TSANG**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**

